

GENGA & ASSOCIATES, P.C.
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Attorneys for Plaintiff
NEW MOTION, INC. d/b/a ATRINSIC MEDIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NEW MOTION, INC. (d/b/a ATRINSIC
MEDIA), a Delaware corporation.

Case No. 09cv99-WOH (BLM)

**STIPULATION FOR DISMISSAL
WITH PREJUDICE AND REQUEST
FOR COURT TO RETAIN
JURISDICTION FOR PURPOSES OF
SETTLEMENT**

SMS.AC, INC. (d/b/a FanBox), a California Corporation, BRANDIE SMITH, an individual, MICHAEL POUSTI, an Individual, and DOES 1 through 50, inclusive.

Defendants.

Plaintiff NEW MOTION, INC. d/b/a ATRINSIC MEDIA (“New Motion”) and defendants SMS.AC, INC. d/b/a FANBOX (“SMS”), BRANDIE SMITH (“Smith”) and MICHAEL POUTSI (“Pousti”) hereby agree and stipulate as follows:

1. The parties have settled the above-captioned matter and entered into a settlement agreement (“Settlement Agreement”).

2. Pursuant to the Settlement Agreement, New Motion hereby requests that this Court dismiss this action with prejudice subject to the terms of this Stipulation.

3. Pursuant to the Settlement Agreement, SMS is to make payments to New Motion under a specific timetable, with the last payment to be made by SMS on or before September 15, 2010.

4. Pursuant to the Settlement Agreement, in the event SMS fails to make said payments, and fails to cure such default, as called for in the Settlement Agreement, New Motion has the right to file a Stipulation for Entry of Judgment, attached as Exhibit A to the Settlement Agreement.

5. The parties hereto request that this Court retain jurisdiction over this action for the purpose of enforcing the Settlement Agreement through and including October 15, 2010.

DATED: July , 2009

GENGA & ASSOCIATES, P.C.

By:

Nicole Krasny Asch
Attorneys for Plaintiff NEW MOTION, INC.
d/b/a ATRINSIC MEDIA

DATED: July ___, 2009

NAVIGATO & BATTIN, LLP.

By:

Michael W. Battin
Attorneys for Defendants SMS.AC, INC. d/b/a
FANBOX, BRANDIE SMITH and MICHAEL
POUSTI

IT IS HEREBY ORDERED:

1. This action is dismissed with prejudice.
 2. The Court shall retain jurisdiction over this action for the purpose of enforcing the Settlement Agreement through and including October 15, 2010.

DATED:

The Honorable Barbara L. Major
United States Magistrate Judge

1 4. Pursuant to the Settlement Agreement, in the event SMS fails to make said
2 payments, and fails to cure such default as called for in the Settlement Agreement, New
3 Motion has the right to file a Stipulation for Entry of Judgment, attached as Exhibit A to
4 the Settlement Agreement.

5 5. The parties hereto request that this Court retain jurisdiction over this action
6 for the purpose of enforcing the Settlement Agreement through and including October 15,
7 2010.

8 DATED: July 1, 2009

GENGA & ASSOCIATES, P.C.

9 By: Nicole K. Asch

10 Nicole Krashy Asch
11 Attorneys for Plaintiff NEW MOTION, INC.
12 d/b/a ATRINIC MEDIA

13 DATED: July 13, 2009

14 NAVIGATO & BATTIN, LLP.

15 By: Michael W. Daffin

16 Michael W. Daffin
17 Attorneys for Defendants SMS, A.G., INC., dba
18 FANBOX, BRANDIE SMITH and MICHAEL
19 POUSHI

20 IT IS HEREBY ORDERED:

- 21 1. This action is dismissed with prejudice.
22 2. The Court shall retain jurisdiction over this action for the purpose of
23 enforcing the Settlement Agreement through and including October 15, 2010.

24 DATED: _____

25 The Honorable Barbara L. Major
26 United States Magistrate Judge

27 STIPULATION RE DISMISSAL AND REQUEST FOR CONTINUING JURISDICTION